

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLAUDJANAE YOUNG, et al.,

Plaintiffs,

v.

DEVON WENGER, et al.,

Defendants.

Case No. [23-cv-02691-SI](#)

ORDER TO SHOW CAUSE

On May 31, 2023, plaintiff Claudjanae Young, through counsel Stanley Goff and Fulvio Cajina, filed this civil rights action against the City of Antioch, Officers Devon Wenger and Erik Nilsen, and Does 1 through 50. Dkt. No. 1. On August 21, 2023, plaintiff filed an amended complaint, adding her sister China Young as a plaintiff. *See* Dkt. No. 9.

Rule 4(m) of the Federal Rules of Civil Procedure provides that service of the summons and complaint must be made upon defendants within 90 days of filing the complaint. “Filing an amended complaint does not toll the Rule 4(m) service period and thereby provide an additional 90 days for service. . . . However, adding a new party through an amended complaint initiates a new timetable for service upon the added defendant.” 4B Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1137 (4th ed.). Because the amended complaint added no new defendants, under the Federal Rules defendants should have been served by August 29, 2023.

On September 20, 2023, plaintiffs filed a “Certificate of Service” on the docket. *See* Dkt. No. 14. The filing appears to be an electronic confirmation of service from the process server. It does not indicate who effectuated the service, or when or how service occurred, nor does it contain an affidavit. The Clerk’s Office rejected the filing, indicating that the filing would not be processed and that “Counsel are instructed to file a Certificate of Service that complies with Fed. R. Civ. P.

1 4(l) and Civil Local Rule 5-5.” Dkt. No. 15. Plaintiffs have filed nothing since.

2 Plaintiffs are therefore **ORDERED TO SHOW CAUSE** why this case should not be
3 dismissed for failure to prosecute. Plaintiffs shall file a certificate of service that complies with
4 Federal Rule of Civil Procedure 4(l) and Civil Local Rule 5-5 on the docket, **no later than October**
5 **10, 2023**. The Court cautions plaintiffs that failure to do so may result in dismissal of this action,
6 without prejudice, for failure to prosecute.

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8 **IT IS SO ORDERED.**

9 Dated: October 4, 2023

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11 SUSAN ILLSTON
12 United States District Judge
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